

HOUSE BILL NO. 183

INTRODUCED BY FRANKLIN

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO SEEK A FEDERAL HOME AND COMMUNITY-BASED SERVICES WAIVER OF THE MEDICAID STATE PLAN IN ORDER TO INCREASE FLEXIBILITY IN PROVIDING SERVICES FOR SERIOUSLY EMOTIONALLY DISTURBED CHILDREN; AND AMENDING SECTIONS 53-6-401 AND 53-6-402, MCA."

WHEREAS, the 58th legislative session in House Joint Resolution No. 13 directed the Department of Public Health and Human Services to conduct a study regarding the health programs administered by the Department and to provide recommendations to the 59th legislative session; and

WHEREAS, the Department formed an advisory committee that examined the structure and values of the state's Medicaid system; and

WHEREAS, the advisory committee advised the Department to seek a home and community-based services waiver from the Secretary of the Department of Health and Human Services for services to seriously emotionally disturbed children.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-6-401, MCA, is amended to read:

"53-6-401. Definitions. As used in this part, the following definitions apply:

(1) "Community-based medicaid services" means those long-term medical, habilitative, rehabilitative, and other services that are available to medicaid-eligible persons in a community setting or in a person's home as a substitute for medicaid services provided in long-term care facilities and that are allowed under the state medicaid plan in order to avoid institutionalization.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Home and community-based services", as provided for in section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n(c) and any regulations implementing that statute, means long-term medical,

habilitative, rehabilitative, and other services provided in personal residences or in community settings.

~~(3)~~(4) "Long-term care facilities" means facilities that are certified by the department to provide skilled or intermediate nursing care services, including intermediate nursing care services for persons with developmental disabilities.

~~(4)~~(5) "Long-term care medicaid services" means community-based medicaid services and those medicaid services provided in long-term care facilities.

~~(5)~~(6) "Long-term care preadmission screening and resident review" means an evaluation that results in a determination as to whether a person requires the services provided in long-term care facilities and whether community-based medicaid services would be an appropriate substitute for medicaid services that are available in long-term care facilities."

Section 2. Section 53-6-402, MCA, is amended to read:

"53-6-402. Community-based long-term care facilities medicaid services -- powers and duties of department. (1) The department may operate, for persons eligible for medicaid, a program of community-based medicaid services as an alternative to long-term care facility services in accordance with the provisions of Title XIX of the Social Security Act, as may be amended.

(2) The department may conduct long-term care preadmission screenings and resident reviews. Long-term care preadmission screenings and resident reviews are required for all medicaid-eligible persons entering long-term care facilities and community-based medicaid services and for all persons who become eligible for medicaid after entering long-term care facilities, before payment for services ~~in such settings are~~ is authorized under medicaid. Preadmission screenings and resident review of persons not applying for medical assistance under this part must be on a voluntary basis, except as required under the Social Security Act.

(3) The department shall annually advise medical doctors and current residents of long-term care facilities of the program provided in subsection (1).

(4) The department may seek and obtain any necessary authorization provided under federal law to implement home and community-based services for seriously emotionally disturbed children pursuant to a waiver of federal law as permitted by section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n(c).
The home and community-based services system must strive to incorporate the following components:

(a) flexibility in design of the system to attempt to meet individual needs;

(b) local involvement in development and administration;

1 (c) encouragement of culturally sensitive and appropriately trained mental health providers;

2 (d) accountability of recipients and providers; and

3 (e) development of a system consistent with the state policy as provided in ~~53-2-301~~ 52-2-301.

4 ~~(4)(5)~~ The department may adopt rules necessary to implement a program of community-based
5 medicaid services and home and community-based services and to establish a system of long-term care
6 preadmission screenings and resident reviews as part of that program."

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